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BY DPTY. CLK. Kim Abard

DATE 1-6-04

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

Civil Action No.

MAGISTRATE JUDGE Tein

ROBERT WOOD and CHERYL WOOD,
Plaintiffs,

v.

THE UNITED STATES OF AMERICA,
Defendant.

04-10015 WGY

COMPLAINT AND DEMAND FOR JURY TRIAL

THE PARTIES

1. The Plaintiff, Robert Wood, husband of Cheryl Wood, is an individual and resides at 66 Pinewood Avenue, Sudbury, Massachusetts.
2. The Plaintiff, Cheryl Wood, wife of Robert Wood, is an individual and resides at 66 Pinewood Avenue, Sudbury, Massachusetts.
3. The Defendant is the United States of America, through its agency and/or division the U.S. Postal Service.

JURISDICTION

4. This Court has exclusive jurisdiction of this action under the Federal Torts Claim Act, Title 28, Section 2679 and Section 1346(a).

THE FACTS

5. On or about April 11, 2002, at approximately 3:38 p.m., Plaintiff Robert Wood was operating a motorcycle at a lawful speed and with the right of way on Route 27 / Cochituate Road in Wayland, Massachusetts.
6. At the aforesaid date and time, Thomas E. Hayes, was operating a motor vehicle owned by the United States of America and/or its departments, agencies, including the U.S. Postal Service, on Mill Brook Road in Wayland, Massachusetts.
7. At the aforesaid date and time Thomas E. Hayes, unlawfully and negligently pulled from a driveway in front of the motorcycle of Plaintiff, Robert Wood, which was already occupying a travel lane and with the right of way.
8. At all material times, Thomas E. Hayes, was acting in the course and scope of his employment for the United States of America, to wit: the U.S. Postal Service, and he was a person for whose acts, the Defendant, United States was responsible.

9. As a result of the above described negligence of the United States of America, by and through its agents and employees, including Thomas E. Hayes, in the operation of a postal truck, the Plaintiff's motorcycle was caused to be tipped over onto his leg, resulting in serious permanent injury to his leg, loss of earnings and earning capacity, medical expenses, mental distress, permanent impairment, pain and suffering and other compensable damages;
10. Separate and apart from the above, the negligence of the United States of America, by and through its agents and employees, including Thomas E. Hayes, caused the Plaintiff, Cheryl Wood to suffer a loss of the companionship, society and consortium of her husband, Robert Wood.
11. The Plaintiffs, Robert and Cheryl Wood, submitted an appropriate Presentment of claim to the U.S. Postal Service, by and through it appropriate agents, servants and employees, in compliance with 28 USCS Section 2401 on or about April 25, 2003.
[EX A]
12. On or about April 28, 2003, the Defendant delivered to the Plaintiffs two (2) SF 95 claim forms, which the Plaintiffs properly completed and returned on May 3, 2003 to Defendant, by and through its appropriate agents, servants and employees. [EX B]
13. The Defendant mailed its denial of claim to Plaintiffs via certified mail pursuant to 39 CFR §912 on July 14, 2003. [EX C]

14. The Plaintiffs, Robert and Cheryl Wood, having fulfilled the requirements of the Federal Tort Claims Act and 28 USC §2675, timely file this action in accordance with 28 USC Section 2401(b) and 39 C.F.R. 912.9(a).

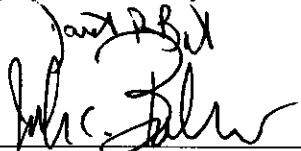
CAUSES OF ACTION

15. The aforementioned paragraphs (1) through (14) are realleged and incorporated as if fully stated herein.
16. **ROBERT WOOD** This is a cause of action by the Plaintiff, Robert Wood against the Defendant, the United States of America, for its negligence that caused severe and permanent physical injuries, loss of earnings and earning capacity, medical expenses, pain and suffering, mental distress and other compensable damages to Robert Wood.
17. **CHERYL WOOD** This is a cause of action by the Plaintiff, Cheryl Wood, against the Defendant, the United States of America, for negligence that caused Cheryl Wood loss of companionship, society and consortium of her husband, Robert Wood.

DEMAND FOR RELIEF

- A. As to the First Cause of Action, the Plaintiff, Robert Wood, demands judgment against the Defendant, the United States of America, U.S. Postal Service, in the amount of his damages as enumerated in his requisite SF 95 Form filed with the United States [attached and incorporated herein as EX B], together with interest and the costs of this action and any other damages and remedy that this Court deems fair, adequate and just.
- B. As to the Second Cause of Action, the Plaintiff, Cheryl Wood, demands judgment against the Defendant, the United States of America, U.S. Postal Service, in the amount of her damages as enumerated in her requisite SF 95 Form filed with the United States [attached and incorporated herein as EX B], together with interest and the costs of this action and any other damages and remedy that the Court deems fair, adequate and just.

The Plaintiffs,
By Their Attorneys,



Joseph C. Borsellino, Esq.

BBO # 551192

David R. Bikofsky, Esq.

BBO # 042870

GILLIS & BIKOFSKY, P.C.

1150 Walnut Street

Newton Highlands, MA 02461-1229

(617) 244-4300